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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/086,857    05/29/98    FREDERICK

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EXAMINER

PM82/0314

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ROUTED TO

ART UNIT

PAPER NUMBER

3651

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03/14/00

*8*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/086,857**

Applicant(s)

**Frederick et al.**

Examiner

**Michael E. Butler**

Group Art Unit  
**3651**



☒ Responsive to communication(s) filed on May 29, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

- ☒ Claim(s) 1-44 is/are pending in the application.
- Of the above, claim(s) 4-23 and 27-44 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-44 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

**DETAILED ACTION*****Election/Restriction***

1. Applicant's election of species with traverse in Paper No. 7 is acknowledged. The applicant's request for withdrawal of the election of species requirement is granted.
2. Applicant's election of invention I with traverse of the restriction requirement in Paper No. 7 is acknowledged.
3. Claims 4-23 and 27-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected , there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.
4. The applicant argues that the definitions of groups II-V and VII-VII are improper. The applicant improperly asserts that the dependence of the claims in upon claims of groups I and VI respectively places these claims within the same claimed invention group as their parent claims. Groups I and VI claim combinations of subcombinations. By contrast the claims of groups II-V and VII-VIII detail particulars of the subcombinations which were combined to form the claimed inventions of each of the combination groups I and VI.

The subcombinations claimed in of groups II-V and VII-VIII may readily be interchanged with equivalents and still constitute the same claimed invention with respect to the combination groups I and VI. As applicant did not include the details of the subcombination within the independent claims, one clearly sees that the particulars of the specific subcombinations are not essential in the operation of the combinations, and that the applicant deemed protection of the combination sufficiently important to warrant protection separately from the protection of the particulars of the subcombination.

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Specifically, the group II claims 4-8 and 10-11 are drawn to a rotary locking mechanism with lever, pawl, and solenoid, said locking mechanism attached to an access controlled refrigerated medicine storage device, classified in class 70, subclass 278.7. The applicant has detailed particulars of the locking mechanism in the claims such a pawls, pivoting levers, cylinders. Such elements comprises a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

Claims 12-15 and 23 are drawn to a system for attaching a locking mechanism to a refrigerator door classified in class 70, subclass 466. The applicant has detailed particulars of the hardware and structural relationships in attaching a locking mechanism to the refrigerator door in the claims such a bolts, fasteners, and brackets. Such elements comprises a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

Claims 16-20 are drawn to a system for reading identification indicia into a computer classified in class 700, subclass 225. The applicant has particulars of input devices such as reading indicia, reports, and printers. Such elements comprises a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

Claims 21-22 drawn to a locking module with self return mechanism, classified in class 70, subclass 144. The applicant has detailed particulars of the return mechanism in the locking module detailing elements such as re-locking contingent upon a door closing and locking upon a time out period. Such elements comprise a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

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The combination was claimed in the independent claim, not the particulars of the subcombination. The applicant has detailed particulars of the locking mechanism in the claims such a pawls, pivoting levers, cylinders. Such elements comprises a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

Claims 28-30 are drawn to a method for attaching an access controlled locking mechanism to the dispenser, classified in class 70, subclass 451. The applicant has detailed particulars of a method for attaching locking mechanism to the refrigerator in the claims such as how one might attach the lock to the door of the refrigerator using hardware such as bolts, brackets, and fasteners, and placing a cover over the lock. Such elements comprise a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

Claims 39-40 drawn to a method for locking a door classified in class 70, subclass 192. The applicant has detailed particulars of how to lock a door such as manually actuating the unlocking mechanism by pivoting a lever and relocking the mechanism by pivoting the lever. Such elements comprise a separate and distinct inventive technology and area of expertise from the refrigerated medicine storage and dispensing device.

5. The applicant argues that the apparatus of group I relative groups VI/VIII are not distinct and lack separate utility. In this case, process VI may be used to recognize the presence of medical inventory within a storage location. Further, the method of group VI may be used with different dispenser. In this case, the process VIII may be used to lock to a house, office, or vault. Applicant's assertion that a sophisticated lock would not be feasible in any other environments misstates the test for patentably distinct inventions as economic improvement is not necessary to

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patentability. Even reviewing applicant's arguments, expensive locks are used to secure valuables such as houses, buildings, and locks.

6. The applicant argues that the apparatus of group I relative group VI/VIII are not distinct and lack separate utility. In this case, process VI may be used to recognize the presence of medical inventory within a storage location. In this case, the process VIII may be used to a lock to a house, office, or vault.

7. The applicant argues that the groups I and VII may not be used separately. The examiner disagrees with this assertion as the bolting process may be used to attach a lock to an office or house as the procedure claimed could work on most solid housing-door combinations. The invention of group I could function properly and be fully enabled if the lock were embedded within or epoxied to the door rather than bolted to the door.

8. The applicant assert that group I lacks separate utility from groups II, III, IV, and V. In the instant case, invention II has separate utility such as a lock for a house or vault. In the instant case, invention III has separate utility such as the attaching of a lock to a house or vault. In the instant case, invention IV has separate utility such as an inventory data input reader to a computer. In the instant case, invention V has separate utility such as a lock release mechanism. See MPEP § 806. As previously indicated, the subcombinations claimed in of groups II-V may readily be interchanged with equivalents and still constitute the same claimed invention with respect to the combination group I. As applicant did not include the details of the subcombination within the independent claims, one clearly sees that the particulars of the specific subcombinations are not essential in the operation of the combinations, and that the applicant deemed protection of the combination sufficiently important to warrant protection separately from the protection of the particulars of the subcombination.

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9. The applicant points out that the requirement is that it must be both independent and distinct. Independent and distinct refers to the elements to support patentably distinct inventions MPEP § 803 (A). The legislative history of the 1952 Patent Act congress intent in the promulgating 35 U.S.C. 121 showed that the joinder of the terms independent and distinct serves as lack of intent in changing the common law practice of permitting restriction between combinations and subcombinations (as cited MPEP § 802.01, final two paragraphs).

10. The applicant argues that two way distinctness must be shown. Two way distinctness is not generally required unless the inventions are related in more than one way (MPEP § 803)

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 25-26 are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has conjoined elements using ‘or’ creating vague and indefinite claims . The applicant should restructure the elements using a Markush grouping if coverage encompassing alternative elements is sought in the claims, “at least one of” if broad coverage is sought, or conjoin the elements with “and” for narrow coverage. These claims have been otherwise examined on the merits presuming the use of a Boolean “OR”.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

14. Claims 1, 3, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavigue et al.. Lavigue et al.. discloses: (Re: cl 1, 24) a computer in operative connection with a data store, data store includes user data representative of a plurality of authorized users (col. 6 L 20-59); the interface includes an input device (col. 5 L 50-65); a refrigerator wherein a storage location for at least one medical item is located in an interior area of the refrigerator., the refrigerator including a door (col. 7 L 36-52); a lock module operatively attached to the refrigerator, the lock responsive to the computer (col. 11 L 39-43); the input device of the interface corresponding to the data representative of an authorized user stored in the data store, the computer enabling user to input indicia corresponding to the medical item (col. 9 L 17-34), the computer operative to output a signal which changes the lock (col. 11 L 39-43; col. 8 L 59-62); computer is operative responsive to input of the item indicia to unlock the module ( col. 8 L 24-30; col. 8 L 58-59).

(Re: cl 3) door is operative to generate an open signal responsive to the door opening computer is operative to the open signal to change the lock module to the locked condition (col. 6 L 47-56); (re: cl 25) door sensor, a latching device for selectively maintaining the lock module in the locked and unlocked conditions (col. 6 L 47-56; col. 7L 10-35).

15. Claims 1 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Colson, Jr. et al.. Colson, Jr. et al. discloses: (Re: cl 1, 24) a computer in operative connection with a data store, data store includes user data representative of a plurality of authorized users (col. 5 L 17-29; Fig. 1, #21); the interface includes an input device (col. 5 L 17-29); a refrigerator wherein a



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storage location for at least one medical item is located in an interior area of the refrigerator., the refrigerator including a door (col. 3 L 1-16; col. 6 L 32-67; Fig. 1, #25); a lock module operatively attached to the refrigerator, the lock responsive to the computer (col. 2 L 50-55; col. 5 L 20-25; col. 6 L 48-67); the input device of the interface corresponding to the data representative of an authorized user stored in the data store, the computer enabling user to input indicia corresponding to the medical item (col. 5 L 20-40), the computer operative to output a signal which changes the lock (col. 5 L 20-25) the computer is operative responsive to input of the item indicia to unlock the module; computer is operative to the open signal to change the lock module to the locked condition (col. 6 L 47-56).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-3 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavigue et al.. Lavigue et al. discloses the elements previously discussed and further discloses: (Re: cl 2) a visual indicator proximate the lock (col. 11 L 3-43) ; the lock has a solenoid (col. 7 L 24-26). It would have been obvious to place the visual indicator on the lock as a matter of design choice because proximate rather than precise mounting location of a visual indicator is sufficient to indicate to the user the identification of the location of the lock corresponds with the compartment(s) and the status of the lock corresponds with the compartment access commands from the computer. The examiner takes official notice that the use of permanent magnets in

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solenoids is well known. It would have been obvious to make the solenoid with a permanent magnet because a construction averts the need for plural windings.

18. Claims 1, 3, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavigue et al. in view of Aten et al.. Lavigue et al. discloses the elements previously disclosed and further discloses: the lock has a solenoid (col. 7 L 24-26). It would have been obvious to make the refrigerated dispenser of Laviue et al. with a solenoid having a permanent magnet because a construction averts the need for plural windings as taught by Aten et al. (col. 9 L 1-30).

19. Claims 1-3 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colson, Jr. et al. in view of Lavigne et al.. Colson, Jr. et al. discloses the elements previously disclosed and further discloses: a latching device for selectively maintaining the lock module in the locked and unlocked conditions (col. 5 L 6-16 ; col. 8 L 24-30; col. 8 L 58-59); visual indicators corresponding to each compartment which is unlocked by the locks (col. 7 L .35-46). Colson, Jr. et al. does not disclose: a door sensor; door is operative to generate an open signal responsive to the door opening, the visual indicator is located on the lock. Lavigne et al. discloses a door sensor with the door operative to generate an open signal responsive to the door opening (It would have been obvious to move the visual indicator corresponding indicators to the lock as a matter of design choice because the proximate rather than precise mounting location of a visual indicator is sufficient to indicate to the user the identification of the location of the lock corresponds with the compartment(s) and the status of the lock corresponds with the compartment access commands from the computer (col. 6 L 47-56; col. 7L 10-35). It would have been obvious to use a sensor to detect the opening of the door as a means of saving power and recording removal of the item as taught by Colson, Jr. et al..

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*Conclusion*

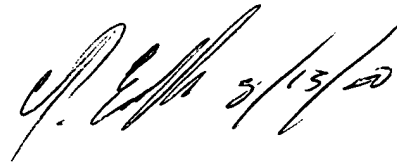
20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis, can be reached on (703) 308-2560. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Examiner



CHRISTOPHER P. ELLIS  
PRIMARY EXAMINER